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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 11th MEETING
(FIRST PART)*

Held at the Palais des Nations, Geneva,
on Monday, 8 February 1993, at 3 p.m.

Chairman: Mr. FLINTERMAN (Netherlands)

later: Mr. ENNACEUR (Tunisia)

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The meeting was called to order at 3.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1993/3, 6, 9, 12, 13, 70-74, 81 and 83; A/47/76, 262 and 509; S/25149)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1993/17, 18, 19 and Add.1 and E/CN.4/1992/12; A/47/412)

1. Mr. BERNALES BALLESTEROS (Special Rapporteur on the question of mercenaries), introducing his report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (E/CN.4/1993/18), said that the activity of mercenaries and their recruitment, use, financing and training had been repeatedly condemned in various United Nations resolutions as grave offences that violated the right to self-determination and the human rights of peoples.

2. Although a certain amount of progress had been noted in the area under concern, such offences had by no means been fully eliminated, and mercenary groups continued to pose a danger in many parts of the world. The information and reports he had examined over the years revealed the existence of a category of persons with military experience and the professional capability to engage in warfare who were willing to offer their services in return for payment and who intervened in domestic or international conflicts as mercenaries for one or both parties to the conflict or on behalf of an interfering Power.

3. The presence of mercenaries had been noted in armed conflicts that had broken out in the context of the emergence of a number of new States and of the reappearance of extremist nationalist movements and religious and ethnic intolerance. As long as such illegal activities persisted, the relevant resolutions of the United Nations condemning mercenary activities remained fully applicable. He recommended, therefore, that the Commission on Human Rights should reiterate its vigorous condemnation and rejection of the recruitment, use, financing and training of mercenaries, regardless of the nature and scope of the conflict, and urge the Member States to adopt the necessary measures and exercise the maximum vigilance with regard to all mercenary practices.

4. There was often a link between mercenary activities and other illegal acts, such as terrorism, arms dealing and drug trafficking. An international market had thus been created that was carrying out activities that could affect the sovereignty of States, the self-determination and human rights of peoples, constitutional order and the economy of countries.

5. Angola was, perhaps, the most serious case in Africa of mercenary involvement in an armed conflict. The presence of white South African mercenaries in UNITA employ had been observed, who according to Angolan radio, were planning an attack from Zaire on the rich Angolan oil enclave of Cabinda. The Commission should support the process of pacification, democratization and national reconciliation in Angola, while indicating its willingness to assist

in preventing a recurrence of the violence that was again endangering the Angolan population. If the Government of the country renewed its invitation, he was willing to go back to Angola to investigate the situation.

6. Progress had been made in the domestic conflict affecting Mozambique. The resumption of the talks between the Government of Mozambique and RENAMO had led to the signing of a general peace agreement, which had already begun to take effect with the gathering of Government and RENAMO armed forces at assembly points, where they were to be demobilized in April 1993. It was to be hoped that the peace process would be effective, because Mozambique had suffered greatly from a long civil war in which the presence of mercenaries had aggravated suffering of its people.

7. The process of dismantling apartheid in South Africa begun by President De Klerk was related to the subject of his report because of the notorious use of mercenaries by the apartheid regime, both within South Africa and in other parts of the African continent. The participation of mercenaries in criminal activities had been confirmed in various judicial investigations. Moreover, the massacre of 17 June 1992 in Boipatong, during which 42 persons had been killed in what had appeared to be an inter-ethnic confrontation, had apparently been instigated by white groups with the active participation of mercenaries. The Commission would undoubtedly adopt a resolution condemning such mercenary activities as part of its vigorous rejection of apartheid.

8. In the territories of the former Yugoslavia, the presence of mercenaries of various nationalities participating on all sides of the conflicts had been reported. The use of terms such as "members of brigades" and "volunteers" as well as "mercenaries", made it difficult, however, to determine the real situation and the legal status of such foreign participants in the conflict. If it proved true that mercenaries were participating in violations of human rights in the former Yugoslavia, including operations of "ethnic cleansing", it would constitute an aggravating circumstance. More precise information and confirmation of allegations were needed to determine whether such mercenaries were specially recruited for that purpose and to establish the identity of those responsible. He hoped to visit the area to carry out a first-hand investigation.

9. Lastly, he referred to Commission on Human Rights resolution 1992/42 requesting all special rapporteurs and working groups, in their next reports to the Commission, to continue paying attention to the adverse effects on the enjoyment of human rights of acts committed by armed groups that spread terror, and by drug traffickers. Where such groups included non-nationals or extended their activities across national frontiers, the question of mercenaries and their employment arose.

10. Mr. van WALT van PRAAG (Pax Christi International) said that the arrest and trial of Xanana Gusmao in Dili illustrated the inadvisability of separating the right to self-determination from other human rights. Like many other East Timorese, Gusmao was a political prisoner detained for leading his people's struggle for self-determination. As in many other places, human rights violations in East Timor were a direct consequence of the violation of the right to self-determination.

11. Events in Eastern Europe, Central Asia, Ethiopia and elsewhere had shown that the application of self-determination went beyond the context of decolonization. Although there were some examples in which unjustified claims and irresponsible actions had led to tension and even fighting, in the vast majority of cases it was the brutal suppression of the legitimate right to self-determination which led to conflicts and suffering. For example, the oppressed Tibetan people could not be blamed for the massive human rights violations in Tibet, which over the past four decades of Chinese occupation had cost the lives of one fifth of the country's population. A recent meeting of international lawyers, held in London in January, had reaffirmed that the Tibetan people had the right to self-determination. The Permanent People's Tribunal, meeting at Strasbourg in November 1992 had reached the same conclusion and had described Tibet as a country under alien domination.

12. Supporters of the right to self-determination were often portrayed as advocating the creation of thousands of mini-States. Nations defending their right to self-determination were labelled separatist, even if they were simply claiming the right to maintain their cultural identity or land. Resisting every attempt to attain autonomy only encouraged the separatist activists.

13. For most peoples, self-determination was not necessarily identified with political independence. Peoples that had been or still were the victims of mass deportations, genocide, discrimination, invasion, humiliation and dispossession were seeking ways to protect themselves from further abuse. For some, such as the Abkhazians, the answer lay in a form of federation or confederation with Georgia. For others, such as the Jummas of the Chittagong Hill Tracts in Bangladesh, the answer was to be found in the protection of their land from massive population transfers of Bengalis and respect for their way of life. In Bougainville, the people longed for peace after more than two years of blockade by the Papua New Guinea forces. And in Ogoni, the goal of the struggle for self-determination was to put an end to the destructive exploitation of the people and natural resources by multinational oil companies.

14. The realization of the right to self-determination could lead to many different forms of cooperation between peoples and States, ranging from full independence to various degrees of autonomy or association. It was time to move away from inflexible interpretations of independence, sovereignty and national integrity and to give thought to ways of decentralizing power.

15. Liechenstein had presented to the United Nations a proposal for a convention on the peaceful implementation of the right to self-determination. That type of initiative deserved the Commission's support. It should pay particular attention to the question of implementing the right to self-determination and to the relationship between self-determination and other human rights. That could best be done by adding an item on self-determination to the Sub-Commission's agenda and by creating a working group on self-determination.

16. Mr. ZHANG Yishan (China), speaking in exercise of the right of reply, said that China had been the victim of vicious attacks that had taken their cue from the Nazi tactic of repeating falsehoods until eventually they were believed. The latest lie concerned the allegation that 1.2 million persons

had been killed in Tibet and that the situation in Tibet was comparable to that in the occupied Arab territories. The purpose of those allegations was clear: to sabotage Chinese unity.

17. Tibet had been an inseparable part of Chinese territory since the thirteenth century, and Tibetans were part of the Chinese family. There were no national, religious or human rights problems in Tibet. Instead, a handful of persons were seeking to restore serfdom, with the connivance of foreign forces.

18. Prior to 1959, a serfdom crueler than that in early Europe had reigned. The vast majority of the population had not even enjoyed the right to life. Since the abolition of serfdom, Tibetans enjoyed full economic, social, cultural, political and civil rights, a fact that could not be denied by a handful of non-governmental organizations which were attempting to stop the wheel of progress. Tibet would not return to a system of serfdom, and the Tibetans would not be deterred in their efforts, together with the rest of the country, to build a prosperous and unified China.

19. Mr. BENHIMA (Observer for Morocco), speaking in exercise of the right of reply, said that no new elements had been advanced to corroborate the accusation that Morocco was creating obstacles to a referendum in Western Sahara. His Government was ready to support the Secretary-General's efforts to hold a referendum as soon as possible. To that end, it had been providing the United Nations Mission for the Referendum in the Western Sahara (MINURSO) with the assistance it needed to carry out its task under the best possible conditions. His Government supported the United Nations plan and would honour the commitments into which it had entered.

20. Mr. SEZGIN (Turkey), speaking in exercise of the right of reply, said that certain non-governmental organizations, speaking on the so-called Kurdish problem, had incorrectly linked it to the right of peoples to self-determination. One of the basic instruments dealing with that right was General Assembly resolution 2625 (XXV), which contained the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations. According to that document, no action was authorized or encouraged which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour. The right to self-determination could thus not be invoked to dismember a country that had a fully representative Government and that conducted itself in compliance with the principles of equal rights and the right of peoples to self-determination.

21. In the post-cold-war period, the world had been witnessing an abuse of self-determination. Unfortunately, some NGOs were instrumental in that regard. They incited people to take up arms, and the inevitable result was terrorist warfare. He wondered whether they wished to share the responsibility for the consequent bloodshed.

22. The CHAIRMAN said that the Commission had concluded its consideration of agenda items 4 and 9.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (E/CN.4/1993/14; E/CN.4/1992/8; A/47/670)

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME IN SOUTH AFRICA (agenda item 6) (E/CN.4/Sub.2/1992/12 and Add.1)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 15) (E/CN.4/1993/52 and Add.1-7, and 53)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16) (E/CN.4/1993/55 and 56; E/CN.4/Sub.2/1992/11; A/47/432)

23. Mr. BIN RIMDAR (Nigeria) said that his delegation could not remain silent in the face of the glaring affront to basic human dignity represented by the institutionalized form of racial discrimination called apartheid, the most comprehensive system of repression and denial of human rights.

24. He was deeply distressed at continuing reports of the involvement of South African security forces in extrajudicial executions, whether through acts of omission, as in Boipatong, or through the unlawful use of lethal force, as in Bisho (Ciskei) on 7 September 1992. His delegation, which was also disturbed about the involvement of covert elements within the police and military in assassinations and massacres, particularly in the province of Natal, called on the international community to take steps to forestall such future occurrences.

25. His Government believed that the Commission should continue to exert pressure on the South African regime to introduce effective reforms promptly. It was particularly worried about the reported deaths of at least 105 detainees in suspicious circumstances during 1992, and welcomed the agreement that the International Committee of the Red Cross had reached with the South African Government giving it access for the first time to detainees held without charge.

26. The final report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1993/14) revealed that widespread and flagrant abuses of human rights were still being committed. Death sentences were still being handed down and, with the expiry of the moratorium, it was likely that the execution of condemned convicts would resume. Equally disturbing was the threat posed to the right to life by death squads, vigilantes and right-wing extremists. His delegation urged the Commission and other agencies concerned to implement fully all the recommendations of the Group of Experts.

27. It welcomed the positive changes occurring in South Africa, following the historic announcement in February 1990 by President De Klerk. Despite Mr. De Klerk's good intentions, however, there were many hard facts that should not be ignored. Apartheid could not be reformed; it must be completely

dismantled. South Africa would enter on the road of irrevocable change only when a disenfranchised majority was given the suffrage on the basis of "one man, one vote". While sanctions should be reviewed in the light of the progress made, his delegation supported their gradual lifting on cultural and sporting events and on individuals.

28. With regard to agenda item 16, every effort should be made to ensure the success of the second half of the Decade to Combat Racism and Racial Discrimination. The United Nations must make enough funds available to ensure satisfactory implementation of the activities of the Second Decade. His delegation hoped that the implementation of the Programme of Action would continue to command priority attention by the Commission with particular emphasis on actions against apartheid. In that regard, efforts should be intensified to provide assistance and relief to victims of apartheid and racial discrimination in South Africa.

29. Mr. VENERA (Czech Republic) said there was no doubt that the United Nations had made remarkable progress with regard to the gradual suppression of official doctrines of racial superiority and exclusivity. The situation was substantially changing in South Africa, a country where an institutionalized form of racism had been deeply rooted and where racial segregation had become a way of life for many people.

30. Racism was manifested in a variety of forms. It was often a primitive attempt to resolve personal difficulties in an area with ethnic or cultural diversities. There was a clear unwillingness on the part of such persons to accept the different ways of life and mentalities of others.

31. Racism and racial discrimination were intensified by conflict over economic resources in developed and developing countries alike. Acts of violence resulting from racism persisted and were even increasing in a number of countries in North America and Europe, not excluding his own. That did not mean, however, that Governments and communities were indifferent to that development. In that regard, his delegation had been quite impressed by the scope of recent anti-racial demonstrations in many German cities. Similar examples could be found in other countries, a fact which proved that the situation was by no means hopeless.

32. A great deal had been done through the implementation of relevant international legal instruments, especially the International Convention on the Elimination of All Forms of Racial Discrimination. The activity of the Committee on the Elimination of Racial Discrimination, established by the Convention, was a cornerstone of international supervision of its implementation in States parties. However, due to a failure by some States to meet their obligations, it had not been as effective as it might be. His delegation therefore supported the decision of the States parties to the Convention in question to fund the Committee from the regular United Nations budget. The Committee could not cope with its workload without the active cooperation of States and a responsible approach to all their obligations. His own Government was prepared to implement the commitments stemming from the Convention.

33. However, the Committee's activity could not possibly reveal all the manifestations and forms of racism. His Government therefore welcomed any new initiatives in that regard and supported the suggestion by the Sub-Commission on Prevention of Discrimination and Protection of Minorities that, for a three-year period, a thematic special rapporteur on contemporary forms of racism, racial discrimination and xenophobia should be appointed, who would report to the Commission on an annual basis on recent trends throughout the world. Such comprehensive reports would constitute a good basis for identifying the major problems and ways to resolve them.

34. The most horrifying manifestations of racism in Europe were occurring in Bosnia and Herzegovina. It was his Government's firm belief that perpetrators of the most outrageous acts must be brought to justice. The report of the Special Rapporteur on the human rights situation in the former Yugoslavia and the Commission of Experts established pursuant to Security Council resolution 780 (1992) had provided substantial relevant information.

35. The situation in South Africa had been a constant concern of the international community. His Government welcomed the positive developments that had taken place in that country's internal legal and political system in recent years, as a result of which the Sub-Commission had been able to modify its priorities, discontinue a Special Rapporteur's mandate and recommend the appointment of a special rapporteur to report on the progress made towards democracy. His delegation would support the relevant draft resolution.

36. The Czech Republic endorsed the ongoing process aimed at the complete dismantling of apartheid, which should be achieved exclusively by peaceful means. The future dialogue on a new constitution would present a significant opportunity to achieve further progress towards a democratic, united and non-racial South Africa.

37. Mr. MENDEZ GRATEROL (Venezuela) said that the agenda items linked with apartheid had always been of concern to the Commission. Important changes were currently taking place in South Africa, as a result of the resolute struggle waged by the South African people and the international community to put an end to that abominable system. Those changes had made it possible to establish a dialogue between the major political forces in South Africa. Such an approach should lead to the adoption of a constitution granting equal political rights to all racial groups.

38. His Government was, however, concerned at the increasing violence that had recently occurred in South Africa and led to the suspension of the negotiations. As indicated in the final report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1993/14), acts of violence, such as those that had occurred in Boipatong and Ciskei, had a negative effect on the political atmosphere necessary to continue negotiations aimed at the definitive eradication of apartheid and the establishment of a new society based on respect for human rights. It was to be hoped that those negotiations would be resumed in the very near future. His delegation endorsed the recommendations of the Ad Hoc Working Group of experts.

39. Venezuela was proud of its population's multi-ethnical composition and of the absence of racial discrimination in the country. It had signed various international legal documents such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Suppression and Punishment of the Crime of Apartheid. Its second periodic report on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid (E/CN.4/1993/52/Add.5) contained information on the legislative, judicial, administrative or other measures adopted by his Government to give effect to the provisions of the Convention. Venezuela also supported the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination.

40. His Government fully supported the various resolutions and measures aimed at the elimination of apartheid. There was no Venezuelan public investment in South Africa and no private Venezuelan enterprises were permitted to invest in that country. Venezuela had no diplomatic, consular, economic, financial, military or other relations with the Pretoria regime.

41. In conclusion, he said that Venezuela supported the cause of the South African people and was convinced that the international community should continue its efforts aimed at putting an end to the violence and establishing the necessary conditions for the continuation of negotiations leading to a democratic and non-racial South Africa.

42. Mr. Ennaceur (Tunisia) took the Chair.

43. Mr. BLACKWELL (United States of America) said that, after decades of oppression and deprivation of basic human rights solely because of race, South Africa stood on the threshold of a new era. The long struggle to demolish the abhorrent race-based system of apartheid was nearing an end.

44. One year previously, the Commission had been buoyed by the progress made at the first round of the constitutional negotiations in South Africa, but intervening events had given cause for concern. In that connection, he referred to the deadlock in the negotiations and the massacre of more than 40 people in Boipatong.

45. However, ongoing intensive bilateral negotiations among the South African Government, the African National Congress and other parties raised the prospect that multi-party negotiations would soon resume. The Government and the ANC had agreed on a timetable that could result in free elections for all South Africans as early as the end of 1993.

46. While many obstacles remained before South Africa could emerge as a free non-racial democracy, his Government believed that the process of change was irreversible. The ruling minority could no longer deny the majority its right to participate fully in the politics and economy of South Africa.
South Africa had an opportunity to create a new relationship among all its people, a relationship that must be built on tolerance, understanding and respect for the rights of all individuals, regardless of race.

47. His Government fully supported the negotiating process in South Africa and stood ready to assist in any useful way. However, it realized that simply removing the institutionalized system of apartheid would not immediately create an equal and just society. While the legal underpinnings of apartheid were largely gone, black South Africans still suffered from the socio-economic effects of long-term legalized discrimination and isolation.

48. In addition, South Africa was racked by violence stemming from decades of intolerance and poverty. Reports of military involvement and acts of violence were deeply disturbing. His delegation encouraged the South African Government to pursue its investigations and to bring to justice those found responsible. It further encouraged all parties to make clear to their supporters that violence was an unacceptable means of political expression.

49. A political settlement would be only the beginning of a long process to heal the wounds from the struggle for democracy and to redress the bitter legacy of apartheid. Blacks needed much more than the right to vote. They must feel that they had a stake in society and the economy.

50. President Clinton had said that a settlement in South Africa must create a democratic Government with full rights for all its citizens. He was deeply committed to seeing the process of transition in South Africa through to the end. As had been seen in the past year, the transitional process in South Africa was still fragile and required the encouragement of the international community.

51. Observers from the United Nations and other international organizations had contributed positively to a reduction in violence and the peaceful resolution of local conflicts. The Organization should remain open to further opportunities to contribute constructively to the negotiating process and the international community should maintain its commitment to the creation of a truly non-racial, democratic South Africa.

52. Mr. HOYOS (Austria) said that some progress had been made in the work of laying the foundations for an interim Government in South Africa and the drafting of a new Constitution. However, there had been a breakdown in the talks because of a lack of consensus on key questions of the transition mechanisms. Later, increasing violence, particularly the massacres at Boipatong and Bisho, had damaged the atmosphere conducive to resolving the remaining issues. It was to be hoped, however, that the representatives of the South African people would resume broad-based negotiations on transitional arrangements without further delay. His delegation called on those political forces which were still hesitant to do so to join the negotiation process.

53. His Government was deeply concerned at the almost daily incidents of violence which had led to the highest death toll in South African history. While that violence was largely a heritage of the past, cooperation among all political forces was of the greatest importance if it was to be overcome. He thus called upon all parties to the National Peace Accord to implement its obligations in full and to cooperate in good faith to bring the current wave of violence to a speedy end. It was clear, however, that the South African Government and the security forces bore the primary responsibility for the protection of the life and property of every South African.

54. There seemed to be broad agreement among political groups on basic principles, including the protection of human rights by a Bill of Rights. Such a Bill should reflect the fact that the mere abolition of the existing order did not redress its long-term negative consequences for the majority of South Africans. He thus welcomed the Government's proposals on a Charter of Fundamental Rights which, together with the proposed Bill of Rights, would lay solid foundations for future work on that important task.

55. The United Nations and the international community had long played an important role in encouraging and supporting the process of change in South Africa, but the Member States should, at the current juncture, assist the victims of apartheid and help reduce socio-economic inequalities. Austria was increasing its contribution to funds and activities within the United Nations framework and its assistance to a number of bilateral projects in that regard.

56. His delegation fully supported the Security council resolutions on the United Nations observer Mission to South Africa and welcomed the enhanced involvement of the Secretary-General. Together with observer teams from the Organization of African Unity, the European Community and the Commonwealth, United Nations observers were making an important contribution to defusing tension and creating a climate conducive to the resumption of negotiations.

57. Miss CHEHABI (Syrian Arab Republic) said that, despite the numerous United Nations resolutions condemning racism and racial discrimination in all its forms, the many conventions adopted on the subject and the celebration of the First and Second Decades to Combat Racism and Racial Discrimination, millions of people worldwide were still suffering from racial discrimination and apartheid. In addition, ethnic tensions and xenophobia were on the increase in many areas, as exemplified by the practice of ethnic cleansing.

58. The apartheid system had always been the most abhorrent manifestation of racism and the South African Government had continually defied international condemnation and the sanctions imposed on it by seeking to reinforce the position of the white minority and plunder the resources of the country. While it was currently faced with a new situation and obliged to make changes, it was still dragging its feet on the political reforms needed: the racist Constitution had not yet been amended, the education system was still tainted by racial discrimination policies and police repression still continued.

59. According to the report of the Ad Hoc Working Group of Experts, 3,150 deaths due to political violence had been were recorded between January and November 1992. The police seemed unable to intervene in a neutral manner to protect black lives and property, since it had been thoroughly trained in racial discrimination policies. The Government was using members of secret organizations and resorting to "dirty tricks" to undermine the negotiations aimed at establishing a democratic, non-racial government in South Africa.

60. The South African regime was not the only one based on racial discrimination and the Israeli Government was involved in equally inhuman practices in the occupied Arab territories. To end those racist practices,

increased efforts were needed on the part of the United Nations and the international community to oblige the Pretoria and Tel Aviv Governments to implement the relevant United Nations resolutions.

61. The Syrian Arab Republic had been one of the first countries to accede to the International Convention on the Suppression and Punishment of the Crime of Apartheid and fully supported all international efforts to combat racism and racial discrimination. However, there was a need to review the methods currently used for pursuing that goal and to consider the introduction of new mechanisms. The United Nations should give the highest priority to that question.

62. Mrs. SYAHRUDDIN (Indonesia) said that there had been significant developments which raised hopes that the final demise of apartheid was at hand. Internal and external pressures had compelled the South African Government to repeal some of the basic apartheid laws, though many others remained in force. The most significant development had been the launching of the CODESA process, involving a commitment by the parties to bring about an undivided South Africa free from apartheid.

63. Unfortunately, the negotiations had been suspended owing to the outbreak of political violence, with collusion between the security forces and the perpetrators of the violence. Apartheid continued to fester and to threaten the lives of the majority of the people, as described clearly in the report of the Ad Hoc Working Group of Experts on South Africa. While welcoming the return of exiles and the release of political prisoners, her delegation was concerned at the continued ill-treatment of prisoners and the large number of deaths of black South Africans in police custody.

64. The damage inflicted on the political, economic and social fabric of South African society by decades of apartheid would take years to repair. The poverty and deprivation faced by the country's young people and children was a crucial problem and greater efforts were needed to remedy socio-economic inequities by social and educational programmes and job placement. The forthcoming seminar to be held at Windhoek by the Special Committee against Apartheid could make a valuable contribution in that regard.

65. The Commission had been considering the problem of human rights violations in South Africa for 40 years but since its objectives were still unfulfilled, it should, like the international community in general, continue to give the question its fullest attention so as to hasten the democratic transformation of the country. In that connection, she recalled the position adopted by the Heads of States of the Non-Aligned Movement to the effect that concerted action by the international community to exert pressure on South Africa was still needed and that Governments, as well as intergovernmental and other organizations, should continue to give financial and humanitarian assistance to the victims of apartheid.

66. Mr. MICHAEL (Observer for Ethiopia) said that a number of welcome changes had occurred in South Africa since February 1990, including the release of political detainees, the lifting of the ban on anti-apartheid political organizations and, in particular, the repeal of the basic apartheid laws. However, it was clear that the ultimate goal of eliminating apartheid in its

entirety had not yet been achieved, and that the South African Government had not yet completely abandoned its former policy. His delegation thus regretted that some countries had sought prematurely to lift or mitigate the effects of sanctions and he urged those States to refrain from such measures in the future, since pressure should still be maintained.

67. It was also concerned at the violence perpetrated by irresponsible elements of the security forces, which had resulted in the killings of hundreds of innocent people and still posed a major threat to genuine negotiations. The reasons for the Government's failure to deal effectively with so-called "black-on-black" violence had recently been exposed by the investigations of the Goldstone Commission. Its revelations confirmed that the security forces bore sole responsibility for creating and fomenting violence and were either unwilling or unable to intervene impartially to protect the lives and property of the black population. His delegation strongly condemned the accompanying campaign of "dirty tricks" and misinformation designed to discredit ANC, and urged the South African Government to put an immediate end to the violence and bring those responsible to justice.

68. His delegation fully supported the conclusions and recommendations of the Ad Hock Working Group and urged the Government to implement them. The Group's report also drew attention to the grave human rights situation of black South African children, who were being arbitrarily arrested in contravention of the relevant human rights instruments, and detained in deplorable prison conditions. His delegation vehemently condemned the extrajudicial arrests and urged the Government to release all those concerned immediately and unconditionally.

69. Ethiopia had always supported the struggle of the South African people to bring about a multiracial and democratic political order in the country by totally eliminating the abhorrent system of apartheid, most recently at the forty-seventh session of the United Nations General Assembly. The latest agreement between ANC and the South African Government to remove obstacles to the resumption of negotiations and release political detainees was an encouraging step in the right direction. In that connection, the preparations for a transition to multiracial democracy should not be delayed further and democratic elections should be held in 1993.

70. Mr. PHEKO (Observer, Pan Africanist Congress of Azania (PAC)) said that, despite all the rhetoric about positive developments in South Africa, the oppressed indigenous African majority was still waiting for genuine change. Genocide against the African people was still continuing and the regime was merely attempting to make a deal with some selected representatives of the oppressed majority. More than 3,500 Africans had died as a result of political violence during 1992, 123 had died in police custody and 306 political prisoners were currently on death row. Some 4,000 children were in detention. Many exiles had returned to face harassment and even death, and others were currently resisting repatriation.

71. Although some sections of the liberation movement wanted sanctions to be lifted, PAC, the South African Council of Churches and some other organizations disagreed, feeling that such a move would further disillusion

the young people, who would resort to their own measures to end apartheid. The most urgent requirement was the establishment of a representative forum to facilitate voter registration so that a constituent assembly could be elected to draw up a non-racial constitution as soon as possible. Such a forum, which should have an independent chairman from outside South Africa, should not be a decision-making body. That was the best way of ensuring peace, democracy, long-term stability and economic development.

72. Although it was estimated that 16,000 Africans had been killed between 1989 and 1992, the huge South African police force seemed able to protect only whites. The alacrity with which the authorities, media and police had reacted to the recent killing of five whites was a telling indication of the different value placed upon black and white lives. PAC was, however, against the killing of civilians, whether white or black. Congo Zimbire, who had announced that the Azanisn People's Army (APLA) would attack civilians, was not a member of APLA or PAC but an agent provocateur.

73. Despite the repeal of the Lands Act of 1913, Africans, who constituted 87 per cent of the population, had still only 13 per cent of the land. As a result, 50 per cent of African children died before the age of five, 53 per cent of Africans lived below the poverty line and four Africans died of malnutrition every day in the so-called independent homelands.

74. The South African regime continued to destabilize neighbouring African States and, between 1981 and 1985, had caused $10 billion of damage, for which compensation had never been paid. The recent summit of African front-line States had expressed concern at the violations of their air space and the renewed threat of military destabilization in the region. It had called on the international community to prevail on South Africa to desist from such policies and had appealed for compliance with the arms embargo against South Africa. Some countries, such as Russia and Switzerland, were violating the embargo and selling sophisticated weapons to South Africa, while others were helping it to manufacture and become a major supplier of such weapons. Certain powers, such as Israel, were even helping South Africa to develop its nuclear capacity. Even after the 1992 referendum, the South African Parliament had voted an extremely large sum for covert operations, an appropriation that was not subject to audit.

75. The South African regime had been promoting genocide through Buffalo Battalion 32 and the Koevoet mercenaries as well as by other means. Mr. De Klerk had, however, described it as "black-on-black violence". Nevertheless, on the eve of the Security Council meeting in July 1992 to discuss that violence, he had suddenly announced that he was disbanding Buffalo Battalion 32 and Koevoet. Until PAC had defied fierce opposition to have South Africa brought to account for the violence before the Security Council, the regime had flatly denied that it employed foreign mercenaries. Mr. De Klerk had yet to explain how he could disband something that did not exist. Moreover, in December 1992 the South African regime had stated that it was dismissing 26 generals from its army because of their involvement in so-called "black-on-black" violence, without disclosing the identities of those generals or their precise crimes.

76. The purpose of the war waged by the South African army against African civilians and political activists was to weaken the liberation movements during the negotiations. That was why PAC, which was not opposed to genuine negotiations, had refused to sign the National Peace Accord. African civilians were dying in South Africa at the hands of the South African army. That posed a serious problem and raised the question of reprisals in the context of the international law of armed conflict and the use of force.

77. There was no doubt that the South African authorities were pursuing a policy of genocide, while at the same time seeking secretly to destabilize neighbouring African States. Certain forces in the world continued to apply a double standard by supporting the racist and colonialist regime of South Africa. Such support, whether political, military or economic, posed a threat to the peace and security of the continent and had dire consequences for the victims of apartheid.

78. Mr. NOGXINA (Observer, African National Congress) said that violence in South Africa was one of the methods by which the apartheid State and its allies sought deliberately to destabilize society and to weaken the bargaining strength of the liberation movement at the negotiating table. Although the period from 1984 to 1989 was commonly referred to as a period of crisis for South Africa, available statistics indicated that, since February 1990, nearly 8,000 people had been killed in political violence, an increase of more than 2,000 over the previous five years, despite the signing of the National Peace Accord in September 1990.

79. Responsibility for the politically-inspired murders recorded in South Africa between July 1990 and June 1992 - violence which had been described by the regime in South Africa as "ethnic rivalry" - lay largely with the authorities. The number of incidents in which vigilantes had been implicated stood at 2,782, while members of the security forces were allegedly involved in no less than 1,790 such incidents. The vigilantes were members of private armies recruited from black local councils and homeland administrations, whose complicity in maintaining the apartheid structure had alienated them from their own community.

80. An independent board of inquiry had established that, of 261 attacks on township residents between July 1990 and April 1992, 144, or 55.1 per cent, were to be attributed to hostel-dwellers. It was against that background, and in the light of the recommendations made by Justice Goldstone, that the African National Congress (ANC) and the Government had agreed in September 1992 to fence off some hostels and to ban the carrying of dangerous weapons in public. However, nothing had been done to implement that agreement.

81. Although the Government had vehemently denied the existence of a "third force" engaged in political violence, it had recently admitted that certain members of the South African Defence Force had indeed been attempting to undermine negotiations by encouraging violence. Allegations concerning the Government's role in that regard had come from former members of the security forces themselves. In response to the information that had come to light, the Goldstone Commission had appealed for further powers and resources, but that appeal had been ignored by the Government which had instead appointed two army

generals to investigate the allegations. As a result, 23 members of the South African Defence Forces (SADF) had been retired or suspended, but the investigation had concluded that there was no evidence of the presence of an unofficial "third force" within the military.

82. Further information regarding the existence of such a force had, however, been recently revealed in judicial proceedings, and the Goldstone Commission, which was charged with responsibility for investigating public violence and intimidation, had seized documents from Military Intelligence offices which offered convincing proof of State involvement in projects aimed at discrediting the ANC.

83. The continuing incidence of deaths in police custody was a further cause for concern. According to a recent report, 123 people had died in police custody in 1992, seven of those deaths being recorded in December alone, a statistic which strongly suggested that the police was failing in its responsibility to safeguard the rights and lives of arrested people. Still more disturbing was the revelation in 1992 by Dr. Jonathan Gluckmann, a South African pathologist, that 90 per cent of deaths in detention had resulted from police brutality against prisoners. In response to Dr. Gluckmann's allegations, the Minister for law and order had proposed that six retired magistrates should be selected to ensure the safety of persons detained in police cells. That measure, however, had not succeeded in putting an end to torture and assault in South African jails. In fact, human rights violations would only decrease if law-enforcement agencies were governed by codes of conduct that guaranteed the safety of those in custody and made the officials involved accountable.

84. The view had been expressed that the current violence in South Africa made it impossible for democratic elections to take place, but the ANC believed that such a view merely encouraged those who were opposed to a negotiated solution based on democratic elections, thus enabling the perpetrators of violence to hold the country's future to ransom. For that reason, it appealed to the international community to assist in the process of establishing in South Africa a climate conducive to the holding of free and fair elections.

85. Ms. ROBINSON (Commission of the Churches on International Affairs) said that it had been the consensus view in the ecumenical community that South Africa was on the road to constitutional transformation, but that belief had been challenged in May 1992 when the second plenary session of the multi-party Convention on a Democratic South Africa (CODESA) had failed to reach agreement, bringing the negotiating process to the verge of collapse. The Boipatong massacre on 17 June 1992, in which more than 40 people died, and the killings in the Ciskei of 28 unarmed ANC demonstrators on 7 September, had heightened tensions in an already volatile situation.

86. The current level of violence in South Africa rendered the enjoyment of basic human rights impossible. In 1992, there had been 3,499 deaths reportedly attributable to the security forces, vigilantes, hit-squads and right-wing political groups, an increase of almost 40 per cent over 1991. In addition, 123 people had died in police custody.

87. It was clear that, in a climate of endemic violence, progress towards democratic rule would be difficult to achieve. For that reason, the Central Committee of the World Council of Churches, meeting at Geneva in August 1992, had adopted resolutions on South Africa in which, inter alia, the Council condemned the spread of intercommunal violence in South Africa and the involvement of the South African police and other services in fomenting that violence and welcomed the establishment of the Ecumenical Monitoring Programme in South Africa (EMPSA), which was sponsored by the South African Council of Churches and the South African Catholic Bishops' Conference.

88. The Monitoring Programme had been launched during an ecumenical mission of eminent persons to South Africa in 1992, with the aim of collecting information on violent incidents and carrying out independent inquiries. Since November 1992, EMPSA had received disturbing information which confirmed that ethnic rivalry had been manipulated by a covert third force. The EMPSA monitors had documented many cases which pointed to the involvement of the security forces in such violence, which could, together with a breakdown of negotiations, lead South Africa into irreversible chaos and destruction.

89. Against that background, the Commission of the Churches on International Affairs welcomed the report of the Ad Hoc Working Group of Experts (E/CN.4/1993/14) and expressed the hope that the Working Group's mandate would be renewed for a further two years. It also hoped that the South African authorities would permit the Group to visit South Africa in order to assess the human rights situation on the spot.

90. Her organization was also deeply disturbed by the proposed sale of 60 Swiss-made trainer aircraft to the South African Defence Forces. Switzerland, though not a member of the United Nations, had committed itself to the Security Council's arms embargo. It had, however, failed to adopt adequate legislation or regulations fully to implement that embargo. In that connection, her organization welcomed the resolution adopted by the Commission on Human Rights at its previous session (resolution 1992/7) in which the Commission condemned political, economic, financial and particularly military assistance to South Africa. It recommended that the Commission should pass a similar resolution at its current session.

91. Mr. HALL (Amnesty International) said that his organization's concern at the lack of accountability for serious human rights violations of the members of the security forces in South Africa had been heightened by recent developments, including the introduction in November 1992 of the Further Indemnity Act, which effectively granted impunity to human rights violators. The Government's failure to establish an independent judicial inquiry into deaths in police custody, despite more than 120 deaths in suspicious circumstances in 1992, and its failure to take steps against key senior military officers implicated in human rights violations and unlawful covert activities against opposition organizations, had contributed to the escalation of violence. Furthermore, the Government continued to refuse responsibility for the protection of human rights of South Africans living in the "homelands".

92. The authorities' response to unlawful police actions could not but encourage further abuses by the police, and representatives of his organization who had recently visited South Africa had heard disturbing reports of continuing assaults and torture. There had, however, been one significant concession from the Government in late 1992 regarding the allegations of torture and ill-treatment in custody, in the form of an agreement reached with the International Committee of the Red Cross (ICRC), by which the Government agreed to grant ICRC access to all detainees in police custody, for the purpose of examining conditions of detention and recommending possible improvements. The procedure envisaged could not, however, exempt the Government from the obligation to make a full public disclosure of the truth concerning the long-standing and gross violations of the rights of prisoners in South Africa.

93. On 19 December 1992 the South African President had announced that he had ordered the suspension or retirement of 23 military officers for alleged involvement in illegal political activities, including murder. While the announcement appeared to indicate a new willingness to take action, key senior officers implicated in such activities remained in their posts. Only one prosecution - for perjury - had been initiated thus far as a result of the disclosures made during judicial inquiries in 1990 and 1991.

94. On 7 September 1992, the world had witnessed the shocking spectacle of unarmed demonstrators being shot down in large numbers as they attempted to cross the frontier of Ciskei, one of the "homelands" which the South African Government maintained were independent. Ordered to conduct an investigation into the killings, the Goldstone Commission had condemned the actions of the Ciskei Defence Force as morally and legally indefensible, and had urged the Ciskei authorities to investigate and prosecute those responsible. There was no indication that any action had yet been taken.

95. In addition to its concerns regarding the need for accountability within the State security forces, Amnesty International had called upon the ANC to ensure that those guilty of serious human rights abuses, such as torture and arbitrary killings, were never allowed to hold positions of authority within that organization or under any future South African administration. In particular, they should be excluded from posts involving responsibility for law enforcement or the custody of prisoners. Amnesty International was continuing to monitor the ANC's implementation of its public commitment to address those issues.

96. In view of the real possibilities of change that had emerged in South Africa since 1990, and the frequent Government statements acknowledging the need for reform within the security forces, Amnesty International regretted the need to reiterate its view that, unless and until the Government took adequate steps to demonstrate publicly and unequivocally that all members of the security forces who were implicated directly or indirectly in human rights violations would be brought to justice, the current climate of fear, frustration and high loss of life would continue. The international community, and the Commission in particular, must send a strong message to the Government of South Africa to indicate that its continuing disregard for internationally accepted human rights standards must cease.

97. Mr. AMOAH (International Commission of Jurists (ICJ)) said that his organization had consistently protested against the steady deterioration in the rule of law and the standards of human rights protection in South Africa. It had followed with keen interest the recent attempts by the South African President to introduce democratic reforms and had sent two fact-finding missions to the country since August 1990.

98. The recommendations of the first mission had had an effective impact on subsequent political developments in the country itself, and had been useful in focusing international attention on the crisis. The second mission had been undertaken in response to the continuing political violence and its spread from Natal to the Transvaal and other parts of South Africa, and its report had included important conclusions and recommendations which were subsequently taken up by the United Nations and other international organizations.

99. The mission had concluded, inter alia, that, unless the issue of political violence was dealt with, it would not be possible either to hold free and fair elections in South Africa or to negotiate the complex constitutional issues involving total abolition of the apartheid system and the introduction of a new legal order based on a democratic constitution and an independent and representative judiciary.

100. In the light of the continuing violence and the current volatile political situation in South Africa, it was important to reiterate the major recommendations of the mission and to urge further action by the United Nations in order to ensure a peaceful transition to a democratic, non-racial, non-sexist and united South Africa. In particular, it had recommended that a team of 100 monitors should be established under United Nations auspices, with the basic task of monitoring the compliance of the South African law enforcement agencies with the code of conduct provided for in the National Peace Accord. An additional function was the monitoring of the performance of political organizations and other signatories of the Accord.

101. Pursuant to Security Council resolution 765 (1992), 60 observers had been sent to South Africa, in addition to others from the Organization of African Unity (OAU), the Commonwealth and the European Community. The International Commission of Jurists made a number of recommendations in connection with the observers: firstly, that the United Nations delegation should be enlarged substantially; secondly, that monitoring should be expanded to cover every politically-related case involving violence; thirdly, that United Nations and other international assistance should be provided in order to ensure that witnesses were protected; fourthly, that the Goldstone Commission should be granted, as soon as possible, adequate means and procedures for offering protection to witnesses who testified before it or before its Committees; and lastly, that the observers should spare no effort to support and strengthen the Goldstone Commission and to monitor the extent to which its recommendations were being implemented.

102. The ICJ report had also recommended a reorganization of the South African security forces under senior civilian administrators and a unified command system for the Kwa Zulu and Natal Police force, but his organization was not aware of any steps being taken in that regard.

103. A further recommendation of the ICJ mission was a ban on the carrying of dangerous weapons in public, a recommendation echoed by the report of the Goldstone Commission on acts of violence in Natal, which had found that existing legislation obliged the police to prevent the carrying of such weapons. Although reliable information indicated that appropriate measures had been taken in that regard, their impact remained to be seen.

104. In the view of the ICJ mission, the hostel system constituted one of the great evils of apartheid, and it had consequently recommended its replacement by homes for families and single people with some provision for privacy. Its short-term recommendation that all hostels should be fenced off immediately, and an effective police presence established to ensure that no arms were taken in and out of the hostels, had not been implemented.

105. With regard to the legal and judicial system, his organization noted that Draconian legislation inhibiting free political activity continued to exist on the statute books. Such legislation should also be repealed. Over 40 years of apartheid policy had created deep-rooted structural inequalities, and it was of the utmost importance that the repeal of those laws should be accompanied by the introduction of positive measures to ensure the establishment of a truly democratic legal system, incorporating a bill of rights and an independent and representative judiciary.

The summary record of the second part of the meeting appears as document E/CN.4/1993/SR.11/Add.1